

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

OPINIONLAB, INC.,)	Case No.: 1:13-cv-01574
)	
Plaintiff,)	(consolidated with Civil Action No. 12-cv-
)	5662 for pretrial purposes)
vs.)	
)	Hon. Judge Harry D. Leinenweber
QUALTRICS LABS, INC.,)	Hon. Magistrate Judge Jeffrey Cole
QUALTRICS, LLC)	
)	JURY TRIAL DEMANDED
Defendants.)	
)	
QUALTRICS LABS, INC.,)	
)	
Counterclaim Plaintiff,)	
vs.)	
)	
OPINIONLAB, INC.,)	
)	
Counterclaim Defendant.)	

**QUALTRICS' UNOPPOSED MOTION FOR LEAVE
TO AMEND ITS FINAL INVALIDITY CONTENTIONS**

Defendants Qualtrics Labs, Inc. and Qualtrics LLC (collectively “Qualtrics”) respectfully moves for leave to amend its final invalidity contentions. Qualtrics has conferred with plaintiff OpinionLab, Inc. (“OpinionLab”) regarding this motion, and OpinionLab does not oppose it.¹

Good cause exists for Qualtrics to amend its final invalidity contentions. Qualtrics recently served its final invalidity contentions. Since then, the Supreme Court issued its opinion *Nautilus v. Biosig* setting forth a new standard for indefiniteness. Qualtrics contends that under the new stand-

¹ While OpinionLab does not agree with Qualtrics’ arguments with respect to alleged good cause as stated herein and in its accompanying memorandum in support, OpinionLab nonetheless does not oppose the relief requested in this motion, i.e., that Qualtrics be permitted to amend its final invalidity contentions in the manner described.

ard, three terms from the asserted claims, “as a whole,” “icon,” and “notable,” are indefinite. Qualtrics has not delayed in raising its indefiniteness positions, which come within two months of *Nau-tilus* and at the same time as the parties’ selection of claim terms for construction under LPL 4.1.

Nor will OpinionLab will suffer prejudice from this amendment and indeed does not oppose this motion. Claim construction has not yet occurred, and discovery is ongoing (no depositions have been taken and fact discovery will not close for more months). If anything, Qualtrics would be prejudiced if it is not permitted to amend because it would be denied the opportunity to present its indefiniteness positions and have them resolved on the merits.

Accordingly, Qualtrics respectfully requests that the Court grant it leave to amend its final invalidity contentions as shown in its First Amended Invalidity Contentions, attached as Exhibit A to the memorandum in support of this motion. A proposed order is included.

Dated: August 5, 2014

Respectfully submitted,

/s/ Matthew W. Walch

Matthew W. Walch (ARDC No. 6226308)

matthew.walch@lw.com

William J. Katt (ARDC No. 6300159)

william.katt@lw.com

LATHAM & WATKINS LLP

330 North Wabash Avenue, Suite 2800

Chicago, IL 60611

Telephone: (312) 876-7700

Robert Steinberg (*pro hac vice*)

bob.steinberg@lw.com

Daniel Scott Schecter (*pro hac vice*)

daniel.schecter@lw.com

Neil A. Rubin

neil.rubin@lw.com

Jonathan Jackson

jonathan.jackson@lw.com

Philip X. Wang

philip.wang@law.com

LATHAM & WATKINS LLP
355 S. Grand Avenue
Los Angeles, California 90071
Telephone: (213) 485-1234

ATTORNEYS FOR DEFENDANTS
QUALTRICS LABS, INC. AND
QUALTRICS, LLC

CERTIFICATE OF SERVICE

I, Neil A. Rubin, hereby certify that on August 5, 2014, I caused to be served a true and correct copy of Qualtrics's Unopposed Motion for Leave to Amend its Final Invalidity Contentions via email to the following counsel of record for plaintiff OpinionLab, Inc.:

Christopher W. Kennerly
Email: chriskennerly@paulhastings.com

Emily Newhouse Dillingham
Email: emilydillingham@paulhastings.com

Evan M. Mclean
Email: evanmclean@paulhastings.com

Lindsay M. White
Email: lindsaywhite@paulhastings.com

Mark D. Pollack
Email: markpollack@paulhastings.com

Robert M Masters
Email: robertmasters@paulhastings.com

Timothy Cremen
Email: timothycremen@paulhastings.com

Jerry Webb
Email: jerrywebb@paulhastings.com

/s/ Neil A. Rubin
Neil A. Rubin